

EX PARTE OR LATE FILED

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March 10, 1997

Federal Communications Commission  
Secretary of the Commission  
Room 222  
1919 M Street  
Washington, D.C. 20554

**Re: EX PARTE COMMENTS OF THE ARIZONA PAYPHONE  
ASSOCIATION, COLORADO PAYPHONE ASSOCIATION,  
MINNESOTA INDEPENDENT PAYPHONE ASSOCIATION AND  
NORTHWEST PAYPHONE ASSOCIATION TO U S WEST, INC'S  
REPLY COMMENTS ON ITS PROPOSED CEI PLAN IN, CC DOCKET  
NO 96-128, IN DA 97-31**

Dear Commission:

The Arizona Payphone Association, the Colorado Payphone Association, the Minnesota Independent Payphone Association and the Northwest Payphone Association (hereinafter collectively referred to as the "Associations") hereby submit these joint Ex Parte Comments in response to U S WEST, Inc.'s ( hereinafter "U S WEST", this also includes U S WEST Communications, Inc.) Reply (hereinafter "Reply") to the Comments of other parties on U S WEST's Comparable Efficient Interconnection Plan for Payphone Services (hereinafter "CEI Plan").

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## INTRODUCTION

As ephemeral as U S WEST's original CEI Plan was, the Reply confirms the Associations' worst fears about how US WEST developed a scheme to prefer and discriminate in favor of its own pay telephone group ( hereinafter "USWEST-PS") as compared to non-U S WEST pay telephone providers ( hereinafter "IPP" or "IPPs"). This Commission is now experiencing, first hand, the double-speak which U S WEST has, for years, employed in its dealing with the IPPs. The "clarifications" and "examples" presented in the Reply confirm that U S WEST's proposed CEI plan for payphone services does, in fact, violate Section 276(a)(2) of the Telecommunications Act of 1996 ( the "Act"). This section states:

(a) Nondiscrimination Safeguards.-- After the effective date of the rules prescribed pursuant to subsection (b), any Bell operating company that provides payphone service—

...

(2) shall not **prefer** or **discriminate** in favor of its payphone service.  
(Emphasis added)

Section 3(34) of the Act defines Bell operating company to include U S WEST.

This Commission must remember that USWEST-PS payphones almost exclusively use coin lines (what U S WEST calls a "Smart PAL") for providing service to the public.<sup>1</sup> IPPs almost exclusively use "Basic PAL" service for providing pay telephone service to the public. Because of the cost of the equipment and the cost to change operating systems it is unlikely that either USWEST-PS or the IPP's will make a mass conversion of their equipment in the near

<sup>1</sup> USWEST-PS does have some payphones that use Basic PAL lines with the addition of line side answer supervision. The Associations believe that these pay phone constitute less than 10% to 15% of all of USWEST-PS's payphones in service.

future. Also, because of the inflexibility of the of the rating system and the forced routing of intraLATA operator calls to U S WEST the coin line may not be an attractive alternative for IPPs. Therefore, to the extent that U S WEST provides service to coin lines on different terms and conditions than it provides to the Basic PAL service, U S WEST will be preferring or discrimination in favor of the service provided to USWEST-PS. The following are but a few examples taken from the Reply.

### **1. ANI CODE 07 VERSUS 27**

On page 23 of the Reply, U S WEST states that it will provide the ANI 07 code for Basic PAL service and the ANI 27 code to the subscribers to the coin line. U S WEST then states that “(t)here is no discrimination because all payphones in each class will use the same screening code”. **It is blatantly false that this is not discriminatory!** The Act requires that U S WEST shall not prefer or discriminate in favor of its payphone service. ANI code 27 immediately identifies to the operator service provider (hereinafter “OSP”) that the end user is calling from a payphone. There is no need for the OSP to look it up in another data base. However, ANI code 07 simply tells the OSP that there are special billing restrictions on the line. To find out what the special billing arrangements are the OSP has to look up the information in another data base, such as LIDB. Some OSP’s don’t subscribe to LIDB and some operators forget or neglect to check the data base. This can result in calls being improperly billed to the IPP’s line. These problems

would not occur if the IPP's could also subscribe to ANI code 27 for their payphones.<sup>2</sup> U S WEST is obviously preferring and discriminating in favor of its payphone service in violation of the Act.

U S WEST should be ordered to unbundle ANI code 27 and offer it to IPPs at a cost-based rate. One way to do this would be to add an "Option 3" in US WEST's Customnet tariff. Option 3 could include all of the features in Option 2, plus include ANI code 27. U S WEST has already been ordered to provide this service in Minnesota<sup>3</sup>.

## **2. U S WEST PROPOSES TO DISCRIMINATE IN FAVOR OF USWEST-PS IN PROVIDING ACCESS TO ITS OPERATIONAL SUPPORT SYSTEMS (OSS)**

On pages 10 through 12 of its Reply U S WEST confirms the Associations' suspicions that it will continue to prefer and discriminate in favor of USWEST-PS in providing access to its operational support systems. When USWEST-PS places an order, schedules repair or maintenance, or wants access to billing records, an employee of USWEST-PS will have direct computer access to the U S WEST records and systems. IPPs have to call or fax their information to the U S WEST Interconnect Services Center and wait for a Service Delivery

<sup>2</sup> This difference in ANI codes may violate the Commission's requirement that U S WEST provide a "discrete ANI code to identify payphones that are maintained by non-LEC providers." FCC 96-388, Report and Order, ¶98. ANI code 27 is a discrete code for that identifies the line as having a payphone on the line. ANI code 07 is a general code that is not discrete to payphones. The Associations are also concerned that the use of the 07 code, as opposed to the 27 code, may create some problems in receiving dial around compensation, especially after October 7, 1997.

<sup>3</sup> In the Matter of a Formal Complaint of the Members of MIPA Against U S WEST Communications, Inc., Docket No. P-421/C-95-1036, ORDER REQUIRING PROVISION OF 1FB TO COCOT PROVIDERS FOR RESALE AND THE RETENTION AND UNBUNDLING OF PAL, Dated November 27, 1996, page 5.

Coordinator to take their call or review their information. The experience of the IPPs is that there is a substantial amount of time spent waiting for U S WEST to answer the line or to respond to the fax. Again, this is a case where US WEST is providing better service to USWEST-PS than it is providing to the IPPs.

U S WEST has alleged that it is providing “comparable” service to IPPs and USWEST-PS. The Act does not use “comparable” as a standard, and with good reason. For example, one dollar is comparable to one million dollars, but the comparison is not very satisfying. The Act, frankly, requires that U S WEST “not prefer or discriminate in favor of its payphone service”. Clearly, U S WEST is proposing to provide better service to USWEST-PS than it will provide to IPPs, in violation of the statute.

U S WEST should be required to either provide the IPPs with direct computer access to its OSS or require USWEST-PS to place its orders through the U S WEST Interconnect Services Group or to report trouble through the CRSAB, just as it proposes to require of the IPPs.

### **3. OPERATOR SERVICES AND UNCOLLECTIBLES**

On pages 28 and 29 of its Reply U S WEST raises more questions than it answers. First, it is not clear how U S WEST Operator and Information Services (OIS) will bill the payphone provider for calls completed by coin deposit. One option is that OIS will bill the full operator service rate to the payphone , which would be the rate that is in the U S WEST tariffs. OIS would then compensate the payphone owner for sending its traffic to OIS in the form of a commission payment. In this case it is necessary to assure that the commission paid to the IPPs is

at least equal to that paid to USWEST-PS, otherwise, U S WEST will be preferring or discriminating in favor of its payphones. If this is the case then those rates, terms and conditions do not appear in the CEI Plan.

A second option, is the payphone would charge the operator services rate for the call. The payphone owner would then pay U S WEST the direct dial rate for the call plus some surcharge for rating the call. If this is the case then those rates, terms and conditions do not appear in the CEI Plan.

A third option is that OIS would bill the payphone at the full operator services tariff rate for the call, and there would be no commission paid the payphone owner. In this case, to the extent there is walk away fraud the pay phone owner would have to absorb the loss. This might be acceptable to USWEST, since, as a integrated company, the losses on the USWEST-PS side of the business would be made up on the OIS side of the business. It is not acceptable to the IPPs who would have no way to make up the loss. If this is the case then those rates, terms and conditions do not appear in the CEI Plan.

An acceptable CEI Plan would have included this information in its tariff so that it could be determined whether the option being used by U S WEST meets the requirement of the Act to not prefer or discriminate in favor of its payphones.

#### **4. RATING OF CALLS ON COIN LINES**

On pages 6 and 7 of the Reply U S WEST it argues that it should not be required to deploy "Profitmaster", which would allow IPPs to separately rate the calls when they attach their payphones to a coin line. This would allow the IPPs (or even USWEST-PS) to charge different

rates than the U S WEST OIS group. If U S WEST is not required to deploy Profitmaster, or some other form of alternative rating system, then U S WEST will be able to discriminate in favor of USWEST-PS. At the very least, USWEST-PS should be required to impute the cost of deploying Profitmaster, as the best measure of the cost to U S WEST for providing call rating services to USWEST-PS.

**5. U S WEST MUST BE REQUIRED TO UNBUNDLED THE COIN LINE AND SCREENING FEATURES FROM THE BASIC LINE FUNCTION TO AVOID DISCRIMINATION.**

U S WEST's CEI Plan and its Reply clearly demonstrate U S WEST's desire and intent to prefer and discriminate in favor of its payphone services. The best way for the Commission to stop U S WEST's unlawful activities is to require that U S WEST fully unbundle the access line, the individual features offered to IPPs and USWEST-PS, and to require that the coin line rate impute the cost for all of the individual features and services being offered to USWEST-PS. The Commission can and must require the rate for the individual features be a cost-based rate using the new service criteria.<sup>4</sup> The need to require that U S WEST rates be cost-based under the new service criteria is demonstrated by U S WEST marking up its monthly rate for line side answer

<sup>4</sup> Attached is a copy of the new PAL tariff filed by U S WEST in Oregon. This tariff provides another example of how U S WEST can prefer and discriminate in favor of its payphone service. U S WEST has presented a number of different rate plans for Basic PAL and Smart PAL. The rate plans are not the same, making comparisons very difficult. It is clear that a flat rate plan is available to Smart PAL subscribers but not to Basic PAL subscribers. Because the of the differences in the rate plans, U S WEST has succeeded in making comparisons between Smart PAL and Basic PAL very difficult to make. Given the Associations' past experiences with U S WEST and the evidence in the CEI Plan it is more likely than not that U S WEST has set the rates to favor its payphones.

supervision from a cost of \$0.05 to a rate of \$3.95, and the monthly rate for Customnet from a cost of \$0.01 to a rate of \$5.00. In addition, U S WEST has proposed a non-recurring rate for Customnet of \$30.00 when the direct costs are \$0.02. It has proposed a non-recurring rate of \$15.00 for line side answer supervision, when the direct costs are \$19.14.<sup>5</sup>

Only by requiring the unbundling of all of the features and services and having a cost based rate can the Commission assure that U S WEST does not prefer or discriminate in favor of its payphone services.

### **CONCLUSION**

U S WEST's CEI Plan should be rejected because it is so vague and ambiguous that it does not qualify as a plan under the CEI criteria. In these Ex Parte Comments the Associations have shown that to the extent that U S WEST does provide limited details for its CEI Plan the plan must be rejected because U S WEST seeks to prefer and discriminate in favor of its own payphone service, in violation of the law.

<sup>5</sup> U S WEST Workpaper 13 in the Description and Justification of Tariff Transmittal No.



Respectfully submitted this the 10<sup>th</sup> day of March, 1997.

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# U S WEST COMMUNICATIONS, INC.

P.U.C. OREGON No. 25  
EXCHANGE AND  
NETWORK SERVICES

SECTION 5  
5th Revised Sheet 61  
Cancels 4th Revised Sheet 61

## 5. EXCHANGE SERVICES

5.5 PUBLIC COMMUNICATIONS SERVICE - COIN AND COINLESS  
5.5.7 PUBLIC ACCESS LINE SERVICE (Cont'd)

### C. Rates and Charges



	USOC	NONRECURRING CHARGE	MONTHLY RATE	
1. Each Basic Public Access Line				(T)
• Measured				
- Two-way, per line[1]	17Q	[2]	\$18.00	(T)
- Outgoing only, per line[1]	16Q	[2]	18.00	(T)
• Measured with 300 Call Allowance				
- Two-way, per line[1,3]	15W	[2]	30.87	(T)
• Message				
- Two-way, per line[4]	1MA	[2]	18.00	(T)

[1] In addition. Business Measured Service usage rates from 5.2 of the Exchange and Network Services Price List, apply.

[2] The business access line nonrecurring charge specified in 5.2 applies.

[3] Flat business EAS rates, specified in 5.1.1 of the Exchange and Network Service Price List, apply.

[4] Message usage charge specified, following, applies.

# U S WEST COMMUNICATIONS, INC.

P.U.C. OREGON NO. 25  
EXCHANGE AND  
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SECTION 5  
2nd Revised Sheet 62  
Cancels 1st Revised Sheet 62

## 5. EXCHANGE SERVICES

### 5.5 PUBLIC COMMUNICATIONS SERVICE - COIN AND COINLESS

#### 5.5.7 PUBLIC ACCESS LINE SERVICE

#### C. Rates and Charges

#### 1. Each Basic Public Access Line (Cont'd)



	USOC	NONRECURRING CHARGE	MONTHLY RATE	
• Message with 300 Call Allowance				
- Two-way, per line[1,2]	1W3	[3]	\$30.87	(T)
• Carrier Package[4]	1N8	[3]	25.00	
2. Each Smart Public Access Line				(N)
• Flat				
- Outgoing only, per line[2]	SFO	[3]	40.00	
- Two-way, per line[2]	SFP	[3]	40.00	
• Message				
- Outgoing only, per line[1] [2] ?-14C		[3]	20.74	
- Two-way, per line[1]	1NH	[3]	20.74	(N)
3. Message Usage Charges				(T)
		MESSAGE RATE		
• Per message		\$0.07		

[1] Message usage charge specified, following, applies. (T)

[2] Flat business EAS rates, specified in 5.1.1 of the Exchange and Network Service Price List, apply.

[3] The business access line nonrecurring charge from 5.2 applies. (T)

[4] Outgoing only service commonly used by Interexchange Carriers. Service includes CUSTOMNET Service and local call restrictions.

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